

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

RAGHIB ZEITOUN, “Gabe;” and  
EB PERFUSION LABZ, LLC

PLAINTIFFS

V.

Civil No. 2:13-cv-107-HSO-RHW

DOUGLAS SEAL; and  
DSA PERFUSION, LLC

DEFENDANTS

**ORDER DENYING DEFENDANTS’ MOTION IN LIMINE REGARDING  
PLAINTIFFS’ CLAIMS FOR AN ACCOUNTING AND  
CONSTRUCTIVE TRUST**

BEFORE THE COURT is the Motion [102] in Limine Regarding Plaintiffs’ Claims for an Accounting and Constructive Trust, filed by Defendants Douglas Seal and DSA Perfusion, LLC. Plaintiffs have filed a Response [108, 109].

A review of Defendants’ Motion [102] in Limine reveals that it is not a motion in limine but a dispositive motion, titled as a motion in limine, that seeks dismissal of Plaintiffs’ remaining claims for an accounting and constructive trust. Defendants previously filed five timely Motions for Summary Judgment [55, 57, 59, 61, 63] in this case but did not address Plaintiffs’ claims for an accounting and constructive trust. The deadline for filing dispositive motions was February 26, 2014, nearly four and half months before Defendants’ Motion was filed.

A motion in limine is not a substitute for a motion for summary judgment. *Marlow LLC v. BellSouth Telecomms., Inc.*, Civil No. 2:10-cv-135-KS-MTP, 2013 WL 125900, \*3 (S.D. Miss. Jan. 9, 2013).

Motions *in limine* should not be used as sweeping means of testing issues of law. 75 Am. Jur. Trial § 44. Except as to certain types of evidence which are generally recognized as inadmissible, a motion *in limine* must be sufficiently specific

with respect to the matters or evidence to be excluded and should not request dispositive pretrial rulings on entire issues or claims. *Id.* at § 50.

*Landrum v. Consec Life Ins. Co.*, Civil No. 1:12-cv-5-HSO-RHW, 2014 WL 28861, \*4 (S.D. Miss. Jan. 2, 2014).

Defendants' Motion [102] in Limine is not the appropriate vehicle for the relief requested, and the time for filing dispositive motions has passed. Accordingly, Defendants' Motion should be denied, and Plaintiffs' claims for an accounting and constructive trust will proceed to trial.

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that, Defendants' Motion [102] in Limine Regarding Plaintiffs' Claims for an Accounting and Constructive Trust is **DENIED**.

**SO ORDERED AND ADJUDGED**, this the 17th day of July, 2014.

*s/ Halil Suleyman Ozerden*  
HALIL SULEYMAN OZERDEN  
UNITED STATES DISTRICT JUDGE